

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
UNITED STATES of AMERICA,

Action No. 1:04-cr-10286 PBS

v.

MICHAEL ALCOTT,
Defendant.

MOTION TO CONTINUE; MOTION TO ENLARGE TIME

N O W C O M E S defendant, Michael Alcott, by his counsel, and moves for an order continuing the December 20, 2005 sentencing hearing in this matter to February 2006, not including the week of February 27 . The defense requests an enlargement of time to object to the PSR to December 30, 2005. The government assents to this motion.

In support of this motion, counsel says as follows:

1. The first draft of the PSR calculates a greater offense level and criminal history category than the government and the defense anticipated in the plea agreement. Probation calculates a sentencing range that begins at 135 months, whereas the government and the defense calculated a maximum of 137 months.
2. The scope of issues for sentencing hearing has expanded and the defense will need more time to prepare.
3. Additionally, defendant's forensic psychiatrist has been diagnosed with pneumonia, slowing the preparation of the defense.

4. The above make preparedness for a December 20, 2005 sentencing hearing unrealistic. The relief sought is necessary to the preparation of the defense and would serve the administration of justice. *Lee v. Kemna*, 534 U.S. 362 (2002)(failure to grant trial continuance to murder defendant seeking to obtain defense witnesses a violation of due process; *habeas* doctrine favoring application of state procedural rule inadequate to stop consideration of federal question).

Dated this 22nd day of November, 2005 at Boston, Massachusetts.

/s./ Kevin L. Barron

Kevin Lawrence Barron, Mass BBO 550712
Counsel to MICHAEL ALCOTT, Defendant
453 Washington Street - 5th Floor
Boston, Massachusetts 02111-1325
Telephone No. 617-482-6368
Facsimile No. 617-517-7711
Cellular No. 617-407-6837
Electronic Mail: k@lawyerbarron.com

ELECTRONIC FILING